

FEB 11 2003

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CATHY A. CATTERSON
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ZAFAROLLAH MOHSENZADEH, aka
Zafar Mohsenzadeh,

Defendant - Appellant.

No. 00-50512

D.C. No. CR-99-00280-CAS-01

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Christina A. Snyder, District Judge, Presiding

Submitted January 13, 2003**
Pasadena, California

Before: HALL, KOZINSKI and RAWLINSON, Circuit Judges.

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

The district court did not abuse its discretion in denying Mohsenzadeh's motion for a new trial. On the current record, the representation provided by Mohsenzadeh's trial counsel did not fall "below an objective standard of reasonableness." *Strickland v. Washington*, 466 U.S. 668, 688 (1984). Trial counsel's decision not to introduce evidence of Mohsenzadeh's membership in Mujahedin-e-Khalq or to investigate or present possible evidence of selective prosecution was a reasonable tactical decision that we decline to second-guess. *See United States v. Claiborne*, 870 F.2d 1463, 1468 (9th Cir. 1989). Nor did trial counsel err in failing to raise a selective prosecution claim as, based on the facts before us, it wouldn't have succeeded. *See United States v. Armstrong*, 517 U.S. 456, 465 (1996).

AFFIRMED.